

**BEFORE THE PLANNING  
COMMISSION FOR THE CITY OF  
BEAVERTON, OREGON**

**After recording return to:**  
City of Beaverton, City Recorder:  
4755 SW Griffith Drive  
P.O. Box 4755  
Beaverton, OR 97076

IN THE MATTER OF A REQUEST TO	) ORDER NO.1780
AMEND BEAVERTON DEVELOPMENT	) TA2004-0010 RECOMMENDING PARTIAL
CODE SECTION 60.65 UTILITY	) APPROVAL OF TEXT AMENDMENTS.
UNDERGROUNDING). CITY OF	)
BEAVERTON, APPLICANT.	)

The matter of TA2004-0010 (Utility Undergrounding Section 60.65 Amendment) was initiated by the City of Beaverton, through the submittal of a text amendment application to the Beaverton Community Development Department.

Pursuant to Ordinance 2050 (Development Code), effective through Ordinance 4332, Section 50.50 (Type 4 Application), the Planning Commission conducted a public hearing on February 9, 2005, and considered oral and written testimony and exhibits for the proposed amendment to the Beaverton Development Code.

TA2004-0010 proposes to amend Development Code Section 60.65 (Utility Undergrounding) and Section 40.95 (Variance). The modification to Section 60.65 (Utility Undergrounding) provides authorization to exempt voter approved Washington County MSTIP 1, 2, and 3 funded road improvements from undergrounding overhead utilities as currently required by the Development Code. The modification to Section 40.95 provides an opportunity for publicly funded roadway projects to request a Variance from the undergrounding requirement based upon specific approval criteria.

The Planning Commission heard testimony from Russell Knoebel representing Washington County Department of Land Use and Transportation – Capital Project Management Division, considered an email communication from Commissioner Bliss, and deliberated the proposal as presented in the staff report.

Findings for proposed amendment to Section 60.65 (Utility Undergrounding).

The Commission found that based upon the testimony, staff report, and exhibits, the specific amendment to Section 60.65.15.1 *Utility Undergrounding* is acceptable for a positive recommendation to the City Council, as the Commission agreed with the staff report's conclusion that MSTIP 1, 2, and 3 projects approved by the voters of Washington County, should not be subject to utility undergrounding. The Commission stated that they are in agreement with the staff report which stated that because the scope of work presented to the electorate did not include utility undergrounding and the voters approved these specific projects prior to the City's Development Code requiring utility undergrounding. All future MSTIP projects, including projects identified on the MSTIP 3b list would be subject to the utility undergrounding requirements.

Findings for proposed Amendment to Section 40.95 (Variance).

The Planning Commission does not recommend that City Council amend the Development Code to allow for a Variance to the utility undergrounding requirements for publicly funded roadway projects. The Commission's recommendation was based upon the finding that the proposal does not meet approval criterion #4 of Section 40.85.15.1.C, specifically Comprehensive Plan policy 3.4.1.c, "*Existing overhead utilities shall be placed underground in all parts of the community in conjunction with development.*"

The Commission's deliberation expressed apprehension to recommending approval of the proposed modification to Section 40.95

*Variance.* The Commission's conclusion was to convey to the City Council their concern that Section 40.95 proposal may provide applicants the ability to circumvent the utility undergrounding policy found in the City's Comprehensive Plan without the consent of the Beaverton City Council. The Commission's recommendation was based upon three main points: 1) The amendment would reverse the City's public and private undergrounding policy established by the City Council; 2) The proposed criterion for approval, Section 40.95.15.1.C.9, provides a low threshold of acceptance; and 3) Generally, the Commission questioned if it is a good policy decision to provide a variance opportunity for utility undergrounding for public funded improvements. Since the proposed Variance approval criterion does not provide a method to allow the City Council to review a variance application the Commission believed that it would be beneficial to provide an outline of the Commission's concern on the proposed variance provision to the Council.

The Planning Commission adopts by reference the February 2, 2005, report as to criteria contained in Section 40.85.15.1.C.1-7 applicable to this request and the supplemental findings contained herein; now, therefore:

**IT IS HEREBY ORDERED** that pursuant to Section 50.50.1 of the Beaverton Development Code, the Planning Commission **RECOMMENDS APPROVAL** of the modification to Section 60.65 (Utility Undergrounding) contained within TA 2004-0010. The Planning Commission finds that evidence has been provided demonstrating that all of the approval criteria specified in Section 40.85.15.1.C.1-7 are satisfied for the modification to Section 60.65.

Furthermore, it is hereby ordered that the Planning Commission **RECOMMENDS DENIAL** of the proposed modification of Section 40.95 (Variance) contained within TA2004-0010 to the Beaverton City Council because criterion #4 has not been met with the proposed amendment to Section 40.95.

Motion **CARRIED** by the following vote:

**AYES:** Pogue, Maks, DeHarpport, Winter, and Johansen.  
**NAYS:** None.  
**ABSTAIN:** None.  
**ABSENT:** Barnard and Bliss.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1780, an appeal must be filed with the City of Beaverton Recorder's Office by no later than 5:00 p.m. on \_\_\_\_\_, 2005.

PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST:

APPROVED:

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TYLER RYERSON  
Associate Planner

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ERIC H. JOHANSEN  
Chairman

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STEVEN A. SPARKS, AICP  
Development Services Manager